

Attorney Docket No. 9435-2

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: Kafri et al.

Confirmation No.: 5850

Serial No.: 10/721,563

Group Art Unit: 1636

Filed: November 25, 2003

Examiner: Michael D. Burkhardt

For: *Single LTR Lentivirus Vector*

April 19, 2005

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO THE RESTRICTION REQUIREMENT

Dear Sir:

Responsive to the Office Communication dated March 24, 2005, it is respectfully requested that this application be considered in view of the following remarks.

Applicants have received and reviewed the Restriction Requirement mailed March 24, 2005. In response to the Restriction Requirement set forth therein, Applicants hereby elect the claims of Group I, with traverse, (Claims 1-23 drawn to nucleic acids and vectors comprising a single or Two LTR(s), and methods of using the same, classified in class 536, subclass 23.2) for substantive examination.

Reconsideration of the restriction requirement as to Groups I and II is respectfully requested. It is respectfully submitted that a search of Group II would overlap with a search of Group I, as both Groups belong to class 435, hence grouping these claims together would not present an undue burden to the United States Patent and Trademark Office. Applicants submit that Group II is directed to methods isolating a cDNA sequence utilizing the population of nucleic acids recited in Group I. Therefore, Applicants submit that a search of Group II in addition to Group I would not unduly burden the United States Patent and Trademark Office.

Applicants also traverse this restriction on the basis that the Examiner has not demonstrated that the requirements for claim restriction have been met. In particular, it is stated in section 803 of the MPEP that two criteria for proper restriction of claims must be met: 1) The inventions must be independent and distinct as claimed, AND 2) there must be a

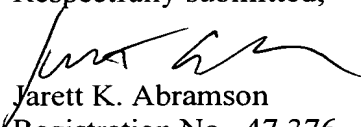
serious burden on the Examiner if restriction is required. The MPEP further states that "[i]f the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to independent or distinct inventions." In particular, the Examiner has not met the second criterion because there is no evidence provided that it would be a serious burden to examine the claims together. The MPEP states that "[f]or purposes of the initial requirement, a serious burden on the Examiner may be *prima facie* shown if the Examiner shows by appropriate explanation of separate classification, or separate status in the art, or a different field of search as defined in MPEP 808.02." Accordingly, Applicants respectfully request reconsideration and withdrawal of the restriction requirement to Groups I and II.

The Examiner is encouraged to contact the undersigned directly if such contact will expedite the examination and allowance of the pending claims.

No additional fees are believed due with this response. However, the Commissioner is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-0220. If any extension of time for the accompanying response or submission is required, Applicants request that this be considered a petition therefore.

It is respectfully submitted that this application is in condition for substantive examination, which action is respectfully requested.

Respectfully submitted,


Jarett K. Abramson
Registration No. 47,376

USPTO Customer No. 20792
Myers Bigel Sibley & Sajovec, P.A.
Post Office Box 37428
Raleigh, North Carolina 27627
Telephone: (919) 854-1400
Facsimile: (919) 854-1401

CERTIFICATE OF EXPRESS MAIL UNDER 37 C.F. R. § 1.10

Express Mail Label Number: EV674755597US

Date of Deposit: April 19, 2005

I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.


Katie A. Chung